

**REMARKS**

This paper is submitted in response to the Office action mailed on September 29, 2006. This paper amends claims 25-26, 28, 35-36, 38-40 and 52-53. Claims 3, 7-24, 27, 29-34, 37 and 41-50 were previously cancelled. Accordingly, after entry of this Amendment and Response, claims 1-2, 4-6, 25-26, 28, 35-36, 38-40, 51-53 will be pending.

**I. Specification**

The Specification is objected to under 37 C.F.R. § 1.75(d)(1) as failing to provide proper antecedent basis for the claimed subject matter of "enterprise computing environment" in claims 25-26, 28 and 52. Applicants have amended claims 25-26, 28 and 52 to remove "computing environment." While this minor amendment does overcome this objection, it is not believed that this amendment narrows or otherwise alters the inventive scope of the claims. Applicants believe that the Specification provided proper support and amendments are not necessary. Nonetheless, to expedite prosecution, the claims have been amended and are supported by the Specification.

**II. Claim Rejections Under 35 U.S.C. § 101**

Claims 25-26, 28, 35-36, 38-40 and 52-53 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants have amended claims 25-26, 28, 35-36, 38-40 and 52-53 to direct the claims to statutory subject matter. Namely, the preambles of the rejected claims have been amended to specify only "tangible" enterprise systems or computer program products. While the minor amendments do clarify that the scope of the claims only claim statutory subject matter pursuant to 35 U.S.C. § 101, it is not believed that the amendments narrow or otherwise alter the inventive scope of the claims. Applicants believe claims 25-26, 28, 35-36, 38-40 and 52-53 are in condition for allowance.

**III. Claim Rejections Under 35 U.S.C. § 103**

Claims 1-2, 4-6, 25-26, 28, 35-36 and 38-40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,504,899 to Yoav Raz (hereafter "Raz") in view of U.S. Patent No. 6,061,708 to McKeehan et al. (hereafter "McKeehan"). A *prima facie* case of obviousness requires that "the prior art reference (or references when combined) must teach or suggest all the claim limitations." See MPEP § 2143, See also *In Re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). For the reasons recited below, it is respectfully submitted that the combination of Raz and McKeehan does not make any of the above listed claims obvious.

***A. Independent claims 1, 25 and 35 are patentable over Raz in view of McKeehan***

Claims 1, 25, 35 and 51-53 are independent claims from which all other pending claims depend. As such, our initial arguments will focus on these independent claims.

Applicants submit that neither Raz nor McKeehan teaches or suggests the operation of "initiating the transaction as a local transaction on the first resource manager without first determining whether the transaction is appropriate to be a local transaction" as recited by claim 1, and similarly as recited by claims 25, 35 and 51-53. Applicants submit that Raz discloses that "each transaction should be assumed to be global, but in this case any optimization of the local concurrency control for local transactions is lost. When an optimi[zation of the] local concurrency control is used... knowledge that a transaction is local can be used any time before the transaction is decided." See Raz, col. 22, lines 14-18 (emphasis provided). First, one aspect of the present invention is to move away from the "default assumption in a J2EE environment that transactions are typically global", this is because starting with "a global transaction by default... wastes computational resources." See Specification, page 3, lines 14-15 and 26-28. However, as shown above, Raz discloses that "each transaction should be assumed to be global" which is contradictory to "initiating the transaction as a local transaction" as recited by claim 1. Thus, Raz implements a method that is in direct opposition to the method of claim 1.

Second, Raz discloses that "knowledge that a transaction is local can be used any time before a transaction is decided." However, claim 1 recites "initiating [a] transaction as a local transaction... without first determining whether the transaction is appropriate to be a local transaction." As such, Raz decides what type of transaction to use (i.e. global or local) based on knowledge of the transaction type, whereas claim 1 initiates a transaction without any knowledge of the transaction type. Thus, for at least these reasons, claims 1, 25, 35 and 51-53 are patentable under 35 U.S.C. § 103(a) over Raz in combination with McKeehan.

***B. Dependent claims are non-obvious***

Dependent claims 2, 4-6, 26, 28, 36 and 38-40 depend upon and contain all the limitations of independent claims 1, 25 and 35, respectively. Therefore, for at least the reasons mentioned above, the combination of Raz and McKeehan fails to teach or suggest each and every limitation of claims 2, 4-6, 26, 28, 36 and 38-40. As such, claims 2, 4-6, 26, 28, 36 and 38-40 are patentable under 35 U.S.C. § 103(a) over Raz in combination with McKeehan.

***IV. Claim Rejections Under 35 U.S.C. § 102***

Claims 51-53 are rejected under 35 U.S.C. § 102(b) as being anticipated by Raz under 35 U.S.C. § 102 "[a] claim is anticipated only if each and every element as set forth in

the claim is found, either expressly or inherently described, in a single prior art reference." See MPEP § 2131, *see also Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 626 (Fed. Cir. 1987). For the reasons recited below, it is respectfully submitted that Raz does not anticipate any of the above listed claims.

***A. Claims 51-53 are not anticipated by Raz***

Applicants submit that Raz does not teach or suggest the operation of "initiating the transaction as a local transaction on the first resource manager without knowledge of whether the transaction is more appropriate to be a local transaction or a global transaction" as recited by claim 51, and similarly as recited by claims 1, 25, 35 and 52-53. For the same reasons stated above with respect to claim 1, Applicants respectfully submit that Raz fails to teach or suggest the operation of "initiating the transaction as a local transaction on the first resource manager without knowledge of whether the transaction is more appropriate to be a local transaction or a global transaction", as recited by claim 51, and similarly as recited by claims 52-53. Thus, for at least this reason, claims 51-53 is patentable under 35 U.S.C. § 102(b) over Raz.

**V. Conclusion**

This Amendment is submitted contemporaneously with a petition for a two-month extension of time in accordance with 37 CFR § 1.136(a). Accordingly, please charge Deposit Account No. 04-1415 in the amount of \$450.00, for two-month extension of time fee. The Applicants believe no further fees or petitions are required. However, if any such petitions or fees are necessary, please consider this a request therefor and authorization to charge Deposit Account No. 04-1415 accordingly.

The Applicants thank the Examiner for his thorough review of the application. The Applicants respectfully submit the present application, as amended, is in condition for allowance and respectfully requests the issuance of a Notice of Allowability as soon as practicable.

If the Examiner should require any additional information or amendment, please contact the undersigned attorney.

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Respectfully submitted,



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